

PATENT
514413-3864

REMARKS

Reconsideration and withdrawal of the claim rejections are requested in view of the amendments and remarks herein. The Examiner is thanked for entering and considering the Amendment filed on December 3, 2003, and for courtesies extended during a telephone conference on February 12, 2004.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1-5, 7-21 and 26 are pending in this application. Claim 1 is amended and claims 27-42 are cancelled. No new matter is added.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims are and were in full compliance with the requirements of 35 U.S.C. §112. The amendments of and additions to the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Furthermore, it is explicitly stated that the herewith amendments should not give rise to any estoppel, as the herewith amendments are not narrowing amendments.

II. THE REJECTIONS UNDER 35 U.S.C. §112, 1ST PARAGRAPH ARE OVERCOME

Claims 1-5, 7-21, 26, 27and 29-42 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking adequate written description and enablement. The rejection is traversed.

The Advisory Action alleges that one of skill in the art would not be able to identify a genus of sequences having the function of a potato β -amylase and 85% sequence identity with SEQ ID NO:2. While Applicants disagree for reasons of record, the language relating to percent sequence identity has been removed from claim 1, in order to advance prosecution.

The Advisory Action further alleges that the skilled artisan would be faced with undue experimentation in making and using fragments of SEQ ID NO:1 to inhibit β -amylase activity by cosuppression or antisense. Again, while Applicants disagree, claims 27-42 have been cancelled to expedite prosecution.

It is believed that the claims are in compliance with the first paragraph of §112, and reconsideration and withdrawal of the rejections thereunder are requested.

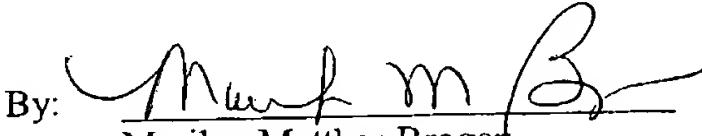
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CONCLUSION

In view of the remarks and amendments herewith, it is believed that the application is in condition for allowance, or at least in better condition for appeal. Entry and consideration of this Amendment, favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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